

NEW JERSEY CLEAN WATER COUNCIL

January 11, 2005
Meeting Highlights

Location:

NJ Environmental Infrastructure Trust, Building 6, Suite 201, 3131 Princeton Pike, Lawrenceville, NJ

Attendees:

Members: Pat Matarazzo, Dan VanAbs, Russ Furnari, Lou Mason Neely, Pat Pittore, Ray Zabihach, Ferdows Ali, Steve Lenox, Tony McCracken, Ray Nichols and Ursula Montis.

Others: Barbara Rich, Julia Barringer(USGS), Jim Lanard(FLG Strategies LLC), Amy Soli(TRC Omni) Lois Voronin(USGS)

Meeting convened by Chairman Pat Matarazzo

MEMBERSHIP MATTERS:

The Chairman welcomed the newest member to be appointed by the Governor, Steven Lenox. He represents the AFL-CIO, as a Legislative Affairs Coordinator, who is completing a term that expires 7/15/05. Russell Funari, who represents the Chamber of Commerce, has also recently received a letter of appointment from the governor's office, with a term that expires 7/15/06. DEP has resubmitted the names of the other members whose terms have expired, to the Governor's office.

DISCUSSION OF OCTOBER'S PUBLIC HEARING

Consensus was to transmit the transcript of the hearings to the Commissioner, with an Executive Summary, together with Dan Van Abs' one page summary that was distributed last month, and a cover letter. Dan suggested that there also be a listing of the questions and the page number where the discussion of each question starts.

It was noted that enforcement inspectors for DEP have been conducting Compliance Assistance visits to municipalities to discuss their progress in complying with the Stormwater Management General Permit conditions. During these visits, the inspectors have been distributing Compliance Checklists which identify what things they will be looking for in the coming months as the deadlines for the municipalities to have completed certain conditions passes.

Russ Funari wondered if these checklists will be provided to the counties in sufficient time to enable the counties to use them to review the municipal plans?

Ray Zabihach noted that a white paper on Stormwater Management issues was recently handed out at a meeting of County Planning Officials.

Dan Van Abs announced that the Municipal Land Use Center, which is based at the College of NJ, will be holding a half day training program on certain parts of the new Stormwater Rules. The program, scheduled for Feb 17, 2005, at the Holiday Inn in Jamesburg, will focus on a few

facets of the rules that are causing concerns. These include: how to do a build-out analysis, and what must go into a Stormwater Mitigation Plan.

In a related matter, Pat Matarazzo noted that the Verona STP, since it treats over 1 million gpd, is now required to have an Industrial Stormwater Management General Permit for that facility, in addition to its other permits. This permit requires them to have a stormwater pollution prevention plan with a set of best management practices in place that considers stormwater runoff. He noted that the general permit requirements take into account the size of the treatment plant.

Ray Zabihach: He has been telling county and municipal planners that the most important part of the process of developing a Municipal Stormwater Management Plan is the preparation of a mitigation plan. There is an assumption that the designers of new development will be able to meet the new standards for retention of runoff and removal of suspended solids on site, but that will not always be the case. The rules allow for municipalities to give out a waiver or exemption from on site compliance, but if they do so, they must have a mitigation plan in place which provides for off site compensation. In order for the process to work well, it will be necessary for the municipalities to plan for such mitigation activities before they are confronted with the need to grant variances or exemptions. Each municipality needs to have its consultants identify local potential mitigation sites.

DISCUSSION OF CO2 RULE PROPOSAL

DEP has proposed a rule change to classify CO₂ as an air pollutant, so that they can address its impacts as a greenhouse gas. Pat Matarazzo had received correspondence from the Business and Industry Council that raised a number of concerns about the potential implications of this rule change. Council members discussed their concerns and realized that although it was primarily an air issue, there were possible implications for sewage treatment plants, and others. During the discussion it was pointed out that CO₂ is very different from other types of hazardous air pollutants. The entire rule proposal is on the DEP web site. It was understood that the Clean Air Council was supposed to be discussing the subject with a representative of the DEP on January 12, 2005. The public comment period was extended to January 16, 2005. Pat requested that the Council members get a copy of the Clean Air Council's minutes so they could learn what was discussed there. He would also like someone from DEP to come to a meeting of the CWC to discuss the implication of this rule proposal.

MTBE FOLLOW-UP DISCUSSION

Assistant Commissioner Samuel Wolfe is now scheduled to attend the February 8th CWC meeting to follow up on the MTBE discussion initiated at the joint CAC/CWC meeting. The MTBE subcommittee will postpone its meeting until after the Council has heard what Assistant Commissioner Wolfe has to say.

PRESENTATION BY JIM LANARD

During a lull in the discussion on MTBE, a visitor, Jim Lanard, of FLG Strategies, introduced himself and asked to speak to the council on behalf of his client, Garden State Ethanol. This "start-up company" would like to construct an ethanol plant somewhere in South Jersey. Such a plant would become feasible if the State banned the use of MTBE and instead supported the use

of ethanol as a gasoline additive. He then discussed some of the political and economic considerations behind the current situation. He understands that the members of the NJ Petroleum Council are split on the issue of the continued use of MTBE as a gasoline additive. Because NY & CT have banned the use of MTBE, the refiners find themselves forced to make one blend for sale in those states and a different blend for sale in NJ & PA. They would prefer to have a regional ban so that they could market one formulation throughout the region. However, one of the firms that operates a refinery in NJ is also a manufacturer of MTBE. He noted that PA may also soon prohibit the use of MTBE. At this time a total of 17 states have banned MTBE. Senator Sweeney has introduced S-2018 to prohibit the sale of gasoline containing MTBE in NJ. He left a copy of his report with Russ Funari, who offered to scan it and send an electronic copy to all of the Council members.

DISCUSSION OF OTHER PROPOSED RULES AND LEGISLATION

Pat Matarazzo noted that, based upon unofficial discussions he has had during the past month, he understands that the bill which proposed to set a MCL of 3 ppb for Arsenic, is not going anywhere.

Incidental to the discussion on Arsenic in NJ's groundwater, members wondered about what DEP has learned as a result of the Private Well Testing Act. Lois Voronin (from USGS) noted that there is now information on DEP's web site (see http://www.state.nj.us/dep/pwta/pwta_report.pdf).

Ray Nichols agreed to try to arrange for the researcher in the Division of Science and Research who has been studying the data to come and speak to the CWC at a future meeting.

Dan Van Abs noted that last fall, the DEP proposed to recodify and amend the Ground Water Quality Standards (GWQS), updating language and outdated references throughout the rule, revising the subsections concerning criteria derivation, and updating many of the health based criteria and practical quantification levels for specific ground water pollutants listed in the GWQS based on current scientific information in risk assessment and analytical capability.

Regarding requests for DEP's positions on pending legislation, Ray Nichols reported that such positions are generally treated as confidential information, however if there are questions about a specific bill that members are currently interested in, he will be able to take such requests back to the DEP, convey the Council's inquiry to John Hazen, and report back at the next monthly meeting. In addition John had indicated that he would be willing to appear before the CWC on a quarterly basis to give them an update. Council members expressed satisfaction with that scenario. They requested information on A-3547 (Arsenic Standards) and S-2018 (ban on MTBE) for the next meeting. They also requested that Ray invite John to attend a meeting in the near future.

DEP UPDATE

Ray Nichols and Ursula Montis made the following announcements:

Assistant Commissioner for Land Use Ernie Hahn is leaving to become Executive Director of the Delaware and Raritan Canal Commission. He will be replaced by Lisa Jackson, who is currently

Assistant Commissioner for Compliance and Enforcement. Wolf Skacel will serve as Acting Assistant Commissioner for Compliance and Enforcement while they seek Lisa's replacement.

The latest issue of the Commissioner's Update Newsletter is now accessible from the DEP home page. Dated November-December 2004, it provides a very readable summary of the DEP's achievements over the past year in an 8 page newsletter format.

The Office of Watershed Education, Estuaries and Monitoring (WEEM) is setting up the second annual conference for educators to connect them with resources that can help them educate their students about New Jersey's water resources. The conference is scheduled for June 28 & 29, 2005. On the first day a variety of workshops and presentations will be offered at the Rutgers EcoComplex in Bordentown. The second day will provide educators with the opportunity to take a field trip to explore one of the many watersheds in various regions of the State.

At the annual ANJEE conference for Environmental Educators held on Jan. 7 and 8, 2005, WEEM conducted a focus group discussion with ten facilitators for Projects WET, WILD and Learning Tree, in order to learn how these educational programs might be improved. These facilitators had several years experience conducting workshops which train teachers to use the curriculum guides and educational activities provided by each of the Projects.

OTHER

Pat announced that the next meeting of the Highlands Commission would be on January 20, 2005 and that the Commission has a budget of 2.9 million dollars.

Dan Van Abs will see if Don Einhorn, the Executive Director of the SBWA, is interested in serving on the CWC.

The group agreed that they liked the new seating arrangement, whereby all the members sat around the large conference table.

Announcement:

THE NEXT MEETING WILL BE ON FEBRUARY 8, 2004, BEGINNING AT 10:00 A.M. Assistant Commissioner Samuel Wolfe is scheduled to discuss the issues associated with MTBE at this meeting. He will speak promptly at 10:00 a.m., as he has a scheduled meeting immediately following his discussion with CWC. So please be on time for the meeting.